

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

2007 JUN 23 PM 4:01

UNITED STATES OF AMERICA

CASE No.

3:07 cr 0102

v.

WALTER HERBERT RICE

I N D I C T M E N T

RODNEY R. RICHLEY, II,

18 U.S.C. § 1341

26 U.S.C. § 7201

DEFENDANT.

26 U.S.C. § 7203

18 U.S.C. § 1957

THE GRAND JURY CHARGES THAT:

INTRODUCTION

At all relevant times herein:

1. Defendant RODNEY R. RICHLEY, II, ("RICHLEY"), age 59, was a resident of Dayton, Ohio. Defendant RICHLEY currently resides in Cape Coral, Florida and was the President of Payroll Data Service, Inc. ("PDS"), a corporation formed in the State of Delaware with its principal place of business in Kettering, Ohio.

2. Beginning in or about 1990, the exact date being unknown to the grand jury, through in or about April 2003, defendant RICHLEY owned and operated PDS in Kettering, Ohio. Through PDS, defendant RICHLEY provided payroll services to the public. The payroll services included the preparation and filing of federal and state employment tax returns and the automated collection and payment of said employment taxes to the relevant federal and state taxing agencies on a regular basis. PDS had approximately six

employees and 170 clients located in the Dayton, Ohio area.

3. The Internal Revenue Service ("IRS") was a constituent agency of the United States Department of Treasury responsible for administering and enforcing the tax laws of the United States and collecting the taxes owed to the Treasury of the United States by its citizens and residents.

4. PDS clients were required by law to withhold, report, and pay over employment taxes to the IRS on the amount of wages that they paid to their employees.

5. Federal income tax withholding ("withholding taxes") and Federal Insurance Contribution Act taxes ("FICA taxes"), as more particularly described below, constitute employment taxes ("employment taxes").

(a) Withholding Taxes: In general, an employer must deduct and withhold income tax on the amount of wages that are actually or constructively paid to its employees, and pay over those withholding taxes to the IRS.

(b) FICA Taxes: FICA taxes are comprised of two elements: old-age, survivor, and disability insurance, which is commonly referred to as "Social Security," and hospital insurance, which is commonly referred to as "Medicare." Social Security taxes are used to fund retirement and disability benefits, while Medicare taxes are used to provide health and medical benefits for the aged and disabled. An employer must deduct FICA Taxes on the amount of

wages that are actually or constructively paid to its employees, and pay over those FICA taxes to the IRS.

6. The IRS requires that an employer report employment taxes on an Employer's Quarterly Federal Tax Return, Form 941 ("Form 941"). The Form 941 is generally filed quarterly, one month after the conclusion of each quarter. An employer must pay over employment taxes to the IRS in full by the due date of the Form 941. The Form 941 summarizes the total wages and total withholdings of income tax, Social Security tax, and Medicare tax for the quarter, including the amount of each monthly tax deposit.

7. From a date unknown to the grand jury, but sometime in or about January 2000, up to in or about April, 2003, defendant RICHLEY, through PDS, received approximately \$4,300,000 of employment taxes due from PDS's clients which he intentionally failed to pay over to the IRS.

COUNTS ONE THROUGH TEN
(18 U.S.C. § 1341 - Mail Fraud)

8. Paragraphs 1 through 7 of this Indictment are realleged and reincorporated herein.

A. THE SCHEME TO DEFRAUD

9. From a date unknown to the grand jury but sometime in or about January 2000, and continuing up until the date of this Indictment, in the Southern District of Ohio and elsewhere, defendant, RODNEY R. RICHLEY, II, knowingly devised and participated in, and intended to devise and participate in, a scheme and artifice to defraud, and to obtain money and property from PDS clients, including, but not limited to, those named in Counts One through Ten of this Indictment, by means of material false and fraudulent pretenses, representations, promises, and omissions of material fact.

B. THE MANNER AND MEANS OF EXECUTING THE FRAUD

10. It was a part of the scheme and artifice to defraud that defendant RICHLEY would cause PDS to enter into agreements with clients to provide employment tax services. As part of these agreements, PDS would agree to collect employment taxes from the clients to be paid over to respective federal and state taxing agencies. It was further part of the agreements that PDS would file all required employer employment tax returns with the relevant federal and state taxing agencies on behalf of the clients. It was further part of the agreements that, having collected the

employment taxes from the clients, PDS would timely pay over these employment taxes to the relevant federal and state taxing agencies.

11. It was further a part of the scheme and artifice to defraud that defendant RICHLEY would cause PDS clients to grant PDS direct electronic access to the clients' bank accounts for transfer of employment taxes to the PDS business bank account number XXXXX3175 maintained at National City Bank.

12. It was further a part of the scheme and artifice to defraud that defendant RICHLEY would withdraw millions of dollars from PDS clients' bank accounts under the guise of collecting and accumulating employment taxes owed by the clients for the purpose of paying those taxes over to federal and state taxing authorities.

13. It was further a part of the scheme and artifice to defraud that defendant RICHLEY would represent to PDS clients that PDS would pay over to the relevant federal and state taxing agencies all required employment taxes using funds collected from the clients.

14. It was further a part of the scheme and artifice to defraud that defendant RICHLEY caused approximately \$4,300,000 in employment taxes collected from PDS clients not to be paid to the IRS.

15. It was further part of the scheme and artifice to defraud that defendant RICHLEY would commingle all client employment taxes in a single account that was used to fund PDS's operating

expenditures and defendant RICHLEY's personal expenditures.

16. It was further part of the scheme and artifice to defraud that defendant RICHLEY would prepare and file with the IRS false Forms 941, Employer's Quarterly Federal Tax Returns, on behalf of PDS clients. The Forms 941 either under-reported on Line 11 total client employment tax liability or falsely reported on Line 14 that the total deposits of reported total client employment tax liability were in fact paid. Collectively, these false line items on the Forms 941 totaled approximately \$4,300,000 in PDS clients' under-reported or unpaid employment tax liability as set forth in the following table:

PDS CLIENT	TIME PERIOD	NUMBER OF FILED FORMS 941	APPROXIMATE TOTAL AMOUNT OF UNDER- REPORTED OR UNPAID TAX LIABILITY
A	2001-2003	6	\$239,317.74
B	2001-2002	5	\$207,527.07
C	2002	3	\$149,976.81
D	2001-2003	7	\$40,938.84
E	2000	3	\$330,066.18
F	2001-2003	5	\$38,374.57
G	2001-2003	5	\$117,958.78
H	2001-2003	6	\$153,164.13
I	2002	3	\$77,718.82
J	2002-2003	4	\$378,596.89
K	2001-2002	5	\$380,322.16
L	2002	2	\$71,418.67

PDS CLIENT	TIME PERIOD	NUMBER OF FILED FORMS 941	APPROXIMATE TOTAL AMOUNT OF UNDER- REPORTED OR UNPAID TAX LIABILITY
M	2000-2003	8	\$240,354.38
N	2001-2002	7	\$92,987.68
O	2001-2003	8	\$688,516.61
P	2000-2003	9	\$335,029.67
Q	2001-2002	4	\$58,939.88
R	2002	2	\$1,023.67
S	2001-2003	6	\$251,387.13
T	2002	3	\$15,793.00
U	2001-2002	4	\$111,358.09
V	2003	1	\$9,102.40
W	2002-2003	3	\$9,371.89
X	2001-2003	5	\$28,112.20
Y	2002-2003	4	\$39,862.47
Z	2001-2002	4	\$27,982.36
aa	2002	2	\$11,213.81
bb	2002-2003	2	\$13,639.87
cc	2002-2003	4	\$31,450.86
dd	2001-2003	5	\$23,610.39
ee	2001-2002	4	\$17,950.30
ff	2001-2003	5	\$18,844.83
gg	2002-2003	4	\$7,424.51
hh	2001-2003	5	\$28,138.61
ii	2001-2003	7	\$126,398.23
jj	2002-2003	4	\$14,112.30
TOTAL			\$4,387,985.80

17. It was further part of the scheme and artifice to defraud that defendant RICHLEY would provide PDS clients with un-filed Forms 941 for the periods referenced above that correctly reported the amount of taxes owed by PDS clients. Defendant RICHLEY would also represent that the tax returns were in fact filed with the IRS to lull the clients into believing that PDS properly remitted their employment taxes to the IRS in payment of their employment tax liabilities.

18. It was further part of the scheme and artifice to defraud that defendant RICHLEY would also provide payroll summaries to the clients in order to lull the clients into believing that PDS properly withdrew the appropriate amount of employment taxes from the client bank accounts. The payroll summaries reflected, among other things, the amount of client funds withdrawn by PDS, the date of the withdrawals, and the purpose of the withdrawals.

19. It was further part of the scheme and artifice to defraud that defendant RICHLEY opened and maintained zero-balance bank accounts at National City Bank, including bank account number XXXXX3239, which were directly funded by PDS business bank account number XXXX3715 maintained at National City Bank.

20. It was further part of the scheme and artifice to defraud that defendant RICHLEY would make periodic transfers of client employment taxes from PDS business bank account number XXXX3715 at National City Bank to the following personal bank accounts, held

individually or jointly with an individual known to the grand jury as J.R.:

Approximate Date	Bank	Account Number	Account Holder
at least 11/19/99	National City Bank	XXXXXX5387	Rodney Richley/J.R.
03/08/00	National City Bank	XXXXXX8643	Rodney Richley
01/13/00	Farmers & Merchants Bank	XX2873	Rodney Richley
at least 11/19/99	National City Bank	XXXXXX6400	Rodney Richley/J.R.
03/08/00	National City Bank	XXXXXX6411	Rodney Richley
04/08/87	National City Bank	XXX4188	Rodney Richley/J.R.

21. It was further part of the scheme and artifice to defraud that defendant RICHLEY would use the client employment taxes for a variety of personal expenditures, including but not limited to the following:

	Date	Description	Form of Payment
(a)	01/24/01	Purchase of 2001 Lamborghini VT Diablo	National City Bank, PDS Account No. XXXXX3175, Check No. 3514 in the amount of \$69,984.00
(b)	03/10/01	Purchase of 2000 Mitsubishi Eclipse	Farmers & Merchant Bank, Rodney Richley Account No. XX2873, Check No. 723 in the amount of \$17,101.44
(c)	05/19/00 to 03/31/03	\$732,000 in U.S. Currency	Farmers & Merchant Bank, Rodney Richley Account No. XX2873, approximately 570 ATM withdrawals

	DATE	DESCRIPTION	FORM OF PAYMENT
(d)	01/10/00	Check made payable to MGM	National City Bank, PDS Account No. XXXXX3239, Check No. 3172 in the amount of \$8,000.00
(e)	02/22/00	Check made payable to Rio	National City Bank, PDS Account No. XXXXX3239, Check No. 3182 in the amount of \$25,000.00
(f)	02/22/00	Check made payable to MGM Grand	National City Bank, PDS Account No. XXXXX3239, Check No. 3183 in the amount of \$10,000.00
(g)	03/12/00	Check made payable to Rio	National City Bank, PDS Account No. XXXXX3239, Check No. 3189 in the amount of \$25,000.00
(h)	03/16/00	Check made payable to MGM	National City Bank, PDS Account No. XXXXX3239, Check No. 3190 in the amount of \$8,000.00
(i)	03/31/00	Check made payable to Rio	National City Bank, PDS Account No. XXXXX3239, Check No. 3192 in the amount of \$25,000.00
(j)	11/20/00	Check made payable to Bally's Paris Las Vegas	National City Bank, PDS Account No. XXXXX3239, Check No. 3453 in the amount of \$25,000.00
(k)	11/20/00	Check made payable to MGM Grand Hotel	National City Bank, PDS Account No. XXXXX3239, Check No. 3452 in the amount of \$10,000.00
(l)	12/08/00	Check made payable to MGM Grand Hotel	National City Bank, PDS Account No. XXXXX3239, Check No. 3464 in the amount of \$10,000.00
(m)	12/08/00	Check made payable to Bally's Paris Las Vegas	National City Bank, PDS Account No. XXXXX3239, Check No. 3465 in the amount of \$20,000.00

	DATE	DESCRIPTION	FORM OF PAYMENT
(n)	12/19/00	Check made payable to Rio Suite Hotel	National City Bank, PDS Account No. XXXXX3239, Check No. 3477 in the amount of \$25,000.00
(o)	05/16/01	Check made payable to MGM Grand Hotel	National City Bank, PDS Account No. XXXXX3239, Check No. 3619 in the amount of \$8,000.00
(p)	05/16/01	Check made payable to Bally's Paris Las Vegas	National City Bank, PDS Account No. XXXXX3239, Check No. 3620 in the amount of \$10,000.00
(q)	07/18/01	Check made payable to Bally's Paris Las Vegas	National City Bank, PDS Account No. XXXXX3239, Check No. 3675 in the amount of \$20,000.00
(r)	07/18/01	Check made payable to MGM Grand Hotel	National City Bank, PDS Account No. XXXXX3239, Check No. 3674 in the amount of \$9,000.00
(s)	08/20/01	Check made payable to Bally's Paris Las Vegas	National City Bank, PDS Account No. XXXXX3239, Check No. 3713 in the amount of \$10,000.00
(t)	08/20/01	Check made payable to MGM Grand Hotel	National City Bank, PDS Account No. XXXXX3239, Check No. 3712 in the amount of \$10,000.00
(u)	09/12/01	Check made payable to Bally's Paris Las Vegas	National City Bank, PDS Account No. XXXXX3239, Check No. 3735 in the amount of \$25,000.00
(v)	11/26/01	Check made payable to MGM Grand Hotel	National City Bank, PDS Account No. XXXXX3239, Check No. 3825 in the amount of \$20,000.00
(w)	11/26/01	Check made payable to Bally's Paris Las Vegas	National City Bank, PDS Account No. XXXXX3239, Check No. 3826 in the amount of \$12,000.00

	DATE	DESCRIPTION	FORM OF PAYMENT
(x)	12/07/01	Check made payable to Bally's Paris Las Vegas	National City Bank, PDS Account No. XXXXX3239, Check No. 3844 in the amount of \$15,000.00
(y)	06/17/02	Check made payable to MGM Grand Hotel	National City Bank, PDS Account No. XXXXX3239, Check No. 4012 in the amount of \$20,000.00
(z)	08/12/02	Check made payable to MGM Grand Hotel	National City Bank, PDS Account No. XXXXX3239, Check No. 4063 in the amount of \$10,000.00

22. It was further part of the scheme and artifice to defraud that defendant RICHLEY used client employment taxes for the benefit of a personal friend, known to the grand jury as S.M., in the form of wire transfers and checks, including but not limited to the following:

	DATE	DESCRIPTION	FORM OF PAYMENT
(a)	03/02/00	Purchase of 2000 Chevrolet Corvette	National City Bank Cashiers Check No. 368361234 for \$54,804.65
(b)	09/25/02	Purchase of Residence located at 21316 Alpine Dr., Lawrenceburg, Indiana	Balloon Payment: Farmers & Merchant Bank, Rodney Richley Account XX2873, Check No. 1011 in the amount of \$204,480.68
(c)	01/14/00 to 01/24/03	Bogus PDS Salary	National City Bank, PDS account XXXXX3175, periodic wire transfers from PDS bank account totaling \$24,449.53
(d)	01/14/00 to 01/24/03	Additional Payments	National City Bank, PDS Account XXXXX3175, periodic wire transfers totaling \$130,510.00

23. It was further part of the scheme and artifice to defraud that defendant RICHLEY, in order to conceal the existence of his scheme, would sell PDS to a business named Automatic Data Processing, Inc., in or about February 2003.

C. THE USE OF THE MAILS

24. On or about the dates set forth below, in the Southern District of Ohio and elsewhere, the defendant, RODNEY R. RICHLEY, II, having devised the above described scheme and artifice to defraud and obtain money and property by means of material false and fraudulent pretenses, representations, promises, and omissions of material fact, for the purpose of executing and attempting to execute the above described scheme and artifice, did knowingly cause the following items to be placed in an authorized depository for mail matter and to be sent and delivered by the U.S. Postal Service according to the directions thereon, each such mailing being a separate Count of this Indictment:

COUNT	DATE	MAIL MATTER
1	08/26/02	Form 941 for Client "O" mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total tax liability of \$76,253.34 on Line 11.
2	11/09/02	Form 941 for Client "O" mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total tax liability of \$72,368.96 on Line 11.
3	03/01/03	Form 941 for Client "O" mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total deposits of \$141,769.25 on Line 14.

COUNT	DATE	MAIL MATTER
4	05/11/03	Form 941 for Client "O" mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total deposits of \$132,563.52 on Line 14.
5	08/29/02	Form 941 for Client "A" mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total tax liability of \$35,138.73 on Line 11.
6	10/31/02	Form 941 for Client "A" mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total tax liability of \$36,905.52 on Line 11.
7	08/26/02	Form 941 for Client "P" mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total tax liability of \$45,856.97 on Line 11.
8	11/09/02	Form 941 for Client "P" mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total tax liability of \$37,009.89 on Line 11.
9	05/10/03	Form 941 for Client "P" mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total deposits of \$102,758.15 on Line 14.
10	05/01/03	Form 941 for Client "P" mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total deposits of \$99,435.14 on Line 14.

All in violation of Title 18, United States Code, Section 1341.

COUNTS ELEVEN THROUGH TWENTY
(26 U.S.C. § 7201 - Evasion of Assessment and Payment
of Employment Taxes)

25. Paragraphs 1 through 7, and 9 through 24 of this Indictment are realleged and reincorporated herein.

26. On or about the dates set forth below, on behalf of Clients "O," "A," and "P," defendant RICHLEY prepared and caused to be prepared, signed and caused to be signed, and filed and caused to be filed with the IRS Forms 941, Employer's Quarterly Federal Tax Returns, which falsely and fraudulently reported that, for each calendar year quarter, the total employee wages subject to withholding were in the reported amounts set forth below, and that the total employment taxes due and owing thereon were in the amounts set forth below.

27. Defendant RICHLEY well knew that, for each calendar year quarter reported on Clients "O," "A," and "P's" Forms 941, Employer's Quarterly Federal Tax Returns, the actual total employee wages subject to withholding were in the amounts substantially greater than reported, as set forth below in paragraph 28, upon which wages there were additional employment taxes due and owing to the United States in the total amounts set forth below.

28. From in or about January 1, 2001, up to and including the date of this Indictment, in the Southern District of Ohio and elsewhere, defendant, RODNEY R. RICHLEY, II, did willfully attempt to evade and defeat the assessment and payment of a part of the

federal employment taxes due and owing to the United States by Clients "O," "A," and "P," for each quarter below by: (1) preparing and causing to be prepared, signing and causing to be signed, and filing and causing to be filed with the IRS false and fraudulent Forms 941, Employer's Quarterly Federal Tax Returns, for Clients "O," "A," and "P," (2) failing to pay over to the IRS the full amount of employment taxes due and owing by Clients "O," "A," and "P," as set forth below, and (3) diverting Clients "O," "A," and "P's" employment tax deposits for purposes other than payment of Clients "O," "A," and "P's" employment tax liabilities.

COUNT	PDS CLIENT	QUARTER ENDED	DATE FORM 941 FILED AT IRS	REPORTED TOTAL WAGES	REPORTED TOTAL EMPLOYMENT TAXES	ACTUAL TOTAL WAGES	ACTUAL TOTAL EMPLOYMENT TAXES DUE AND OWING
11	Client "O"	03/31/01	06/08/01	\$499,209.36	\$107,143.99	\$799,209.36	\$217,143.99
12	Client "O"	06/30/01	09/22/01	\$284,213.66	\$69,514.48	\$684,213.66	\$179,828.28
13	Client "O"	09/30/01	12/19/01	\$154,105.89	\$48,047.31	\$654,105.89	\$171,047.31
14	Client "O"	12/31/01	02/27/02	\$341,925.61	\$99,604.55	\$621,932.06	\$197,636.22
15	Client "O"	06/30/02	08/26/02	\$301,428.35	\$76,253.34	\$671,428.35	\$161,584.32
16	Client "O"	09/30/02	11/09/02	\$340,369.78	\$72,368.96	\$675,369.78	\$163,782.76
17	Client "A"	06/30/02	08/29/02	\$165,785.45	\$35,138.73	\$343,785.45	\$75,400.63
18	Client "A"	09/30/02	10/31/02	\$151,693.22	\$36,905.52	\$353,693.22	\$76,731.66
19	Client "P"	06/30/02	08/26/02	\$150,834.90	\$45,856.97	\$353,834.90	\$97,557.69
20	Client "P"	09/30/02	11/09/02	\$121,179.49	\$37,009.89	\$341,179.49	\$95,275.18

In violation of Title 26, United States Code, Section 7201.

COUNTS TWENTY-ONE THROUGH TWENTY-FOUR

(26 U.S.C. § 7201 - Evasion of Payment of Employment Taxes)

29. Paragraphs 1 through 7, 9 through 24, and 26 through 28 of this Indictment are realleged and reincorporated herein.

30. On or about the dates set forth below, on behalf of Clients "O" and "P," defendant RICHLEY prepared and caused to be prepared, signed and caused to be signed, and filed and caused to be filed with the IRS Forms 941, Employer's Quarterly Federal Tax Returns, that falsely and fraudulently reported, for each calendar year quarter, that the total deposits of employment taxes made with the IRS were in the amounts as set forth below.

31. Defendant RICHLEY well knew that, for each calendar year quarter reported on Clients "O" and "P's" Forms 941, Employer's Quarterly Federal Tax Returns, the actual total deposits of employment taxes made with the IRS were in the amounts as set forth below.

32. From in or about January 1, 2002, up to and including the date of this Indictment, in the Southern District of Ohio and elsewhere, defendant, RODNEY R. RICHLEY, II, did willfully attempt to evade and defeat the payment of a part of the federal employment taxes due and owing to the United States by Clients "O" and "P," for each quarter below by: (1) preparing and causing to be prepared, signing and causing to be signed, and filing and causing to be filed with the IRS Forms 941, Employer's Quarterly Federal Tax Returns, for Clients "O" and "P," (2) failing to pay over to

the IRS the full amount of employment taxes due and owing by Clients "O" and "P," as set forth below, and (3) diverting Client "O" and "P's" employment tax deposits for purposes other than payment of Client "O" and "P's" employment tax liabilities.

COUNT	PDS CLIENT	QUARTER ENDED	DATE FORM 941 FILED AT IRS	REPORTED TOTAL DEPOSITS	ACTUAL TOTAL DEPOSITS
21	Client "O"	12/31/02	03/01/03	\$141,769.25	\$110,085.37
22	Client "O"	03/31/03	05/11/03	\$132,563.52	\$93,790.37
23	Client "P"	12/31/02	05/10/03	\$102,758.15	\$79,804.81
24	Client "P"	03/31/03	05/01/03	\$99,435.14	\$91,298.31

In violation of Title 26, United States Code, Section 7201.

COUNT TWENTY-FIVE
26 U.S.C. § 7201 - Evasion of Individual
Income Taxes for 2001)

33. Paragraphs 1 through 7, 9 through 24, 26 through 28, and 30 through 32 of this Indictment are realleged and reincorporated herein.

34. From on or about January 1, 2001, up to and including the date of this Indictment, in the Southern District of Ohio and elsewhere, defendant, RODNEY R. RICHLEY, II, did willfully attempt to evade and defeat the assessment and payment of part of the income tax due and owing by him to the United States for the calendar year 2001, by, (a) filing and causing to be filed false Forms 941 for PDS clients as set forth in the table in paragraph 16 of this Indictment and in Counts 11-24 of this Indictment; (b) diverting PDS clients' employment tax deposits for purposes other than payment of PDS clients' employment tax liabilities; (c) utilizing U.S. currency and cashier's checks to conceal personal expenditures; and (d) preparing and causing to be prepared, signing and causing to be signed, and filing with the IRS a false 2001 U.S. Individual Income Tax Return, Form 1040, on or about June 8, 2002, which return defendant RICHLEY did not believe to be true and correct as to every material matter in that the return falsely and fraudulently stated on Line 58 that his total tax was \$141,333.00, when as defendant RICHLEY well knew, his taxes due and owing were substantially in excess of that amount.

In violation of Title 26, United States Code, Section 7201.

COUNT TWENTY-SIX
(26 U.S.C. § 7201 - Evasion of Individual
Income Taxes for 2002)

35. Paragraphs 1 through 7, 9 through 24, 26 through 28, 30 through 32, and 34 of this Indictment are realleged and reincorporated herein.

36. From on or about January 1, 2002, up to and including the date of this Indictment, in the Southern District of Ohio and elsewhere, defendant, RODNEY R. RICHLEY, II, did willfully attempt to evade and defeat the assessment and payment of part of the income tax due and owing by him to the United States for the calendar year 2002, by, (a) filing and causing to be filed false Forms 941 for PDS clients as set forth in the table in paragraph 16 of this Indictment and in Counts 11-24 of this Indictment; (b) diverting PDS clients' employment tax deposits for purposes other than payment of PDS clients' employment tax liabilities; (c) utilizing U.S. currency and cashier's checks to conceal personal expenditures; and (d) preparing and causing to be prepared, signing and causing to be signed, and filing with the IRS a false 2002 U.S. Individual Income Tax Return, Form 1040, on or about April 3, 2003, which return defendant RICHLEY did not believe to be true and correct as to every material matter in that the return falsely and fraudulently stated on Line 61 that his total tax was \$120,424.00, when as defendant RICHLEY well knew, his taxes due and owing were substantially in excess of that amount.

In violation of Title 26, United States Code, Section 7201.

COUNT TWENTY-SEVEN
(26 U.S.C. § 7203 - Failure to File Corporate
Tax Return for 2001)

37. Paragraphs 1 through 7, 9 through 24, 26 through 28, 30 through 32, 34 and 36 of this Indictment are realleged and reincorporated herein.

38. During the calendar year 2001, defendant, RODNEY R. RICHLEY, II, was the President of PDS, a corporation not expressly exempt from tax, with its principal place of business at Kettering, Ohio, and by reason of such facts he was required by law, after the close of the calendar year 2001, and on or before March 15, 2002, for and on behalf of said corporation, to make an income tax return to the Director, Internal Revenue Service Center, at Cincinnati, Ohio, in the Southern District of Ohio, or to the person assigned to receive returns at the local office of the Internal Revenue Service at Cincinnati, Ohio, or to any other proper officer of the United States, stating specifically the items of said corporation's gross income and the deductions and credits allowed by law; that well-knowing all of the foregoing, he did willfully fail to make an income tax return for PDS to said Director of the Internal Revenue Service Center, to said person assigned to receive returns at the local office of the Internal Revenue Service, or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

COUNT TWENTY-EIGHT
(26 U.S.C. § 7203 - Failure to File Corporate
Tax Return for 2002)

39. Paragraphs 1 through 7, 9 through 24, 26 through 28, 30 through 32, 34, 36 and 38 of this Indictment are realleged and reincorporated herein.

40. During the calendar year 2002, defendant, RODNEY R. RICHLEY, II, was the President of PDS, a corporation not expressly exempt from tax, with its principal place of business at Kettering, Ohio, and by reason of such facts he was required by law, after the close of the calendar year 2002, and on or before March 15, 2003, for and on behalf of said corporation, to make an income tax return to the Director, Internal Revenue Service Center, at Cincinnati, Ohio, in the Southern District of Ohio, or to the person assigned to receive returns at the local office of the Internal Revenue Service at Cincinnati, Ohio, or to any other proper officer of the United States, stating specifically the items of said corporation's gross income and the deductions and credits allowed by law; that well-knowing all of the foregoing, he did willfully fail to make an income tax return to said Director of the Internal Revenue Service Center, to said person assigned to receive returns at the local office of the Internal Revenue Service, or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

COUNTS TWENTY-NINE THROUGH THIRTY-SIX
(18 U.S.C. § 1957 - Money Laundering)

41. Paragraphs 1 through 7, 9 through 24, 26 through 28, 30 through 32, 34, 36, 38 and 40 of this Indictment are realleged and reincorporated herein.

42. On or about the dates listed below, in the Southern District of Ohio and elsewhere, defendant, RODNEY R. RICHLEY, II, knowing that the funds involved represented the proceeds of some form of unlawful activity, conducted and caused others to conduct the following monetary transactions in criminally derived property of a value greater than \$10,000, which property was derived from specified unlawful activity, namely, mail fraud, in violation of 18 U.S.C. § 1341:

COUNT	DATE	DESCRIPTION	AMOUNT
29	07/23/02	Check No. 4041 from National City Bank, Account No. XXXXX3239, in name of PDS made payable to Rodney R. Richley and deposited into Farmers & Merchant Bank Account No. XX2873 in the name of Rodney Richley/Payroll Data Service	\$25,151.50
30	08/12/02	Check No. 4058 from National City Bank, Account No. XXXXX3239, in name of PDS made payable to Rodney R. Richley and deposited into Farmers & Merchant Bank Account No. XX2873 in the name of Rodney Richley/Payroll Data Service	\$31,500.00

COUNT	DATE	DESCRIPTION	AMOUNT
31	08/27/02	Check No. 4077 from National City Bank, Account No. XXXXX3239, in the name of PDS made payable to Rodney R. Richley and deposited into Farmers & Merchant Bank Account No. XX2873 in the name of Rodney Richley/Payroll Data Service	\$42,500.00
32	09/25/02	Check No. 1011 from Farmers & Merchant Bank, Account No. XX2873, in the name of Rodney R. Richley made payable to Cash	\$204,480.68
33	10/02/02	Check No. 4111 from National City Bank, Account No. XXXXX3239, in the name of PDS made payable to Rodney R. Richley and deposited into Farmers & Merchant Bank Account No. XX2873 in the name of Rodney Richley/Payroll Data Service	\$15,500.00
34	10/08/02	Check No. 4116 from National City Bank, Account No. XXXXX3239, in the name of PDS made payable to Rodney R. Richley and deposited into Farmers & Merchant Bank Account No. XX2873 in the name of Rodney Richley/Payroll Data Service	\$20,000.00
35	10/23/02	Check No. 4178 from National City Bank, Account No. XXXXX3239, in the name of PDS made payable to Rodney R. Richley and deposited into Farmers & Merchant Bank Account No. XX2873 in the name of Rodney Richley/Payroll Data Service	\$21,352.10

COUNT	DATE	DESCRIPTION	AMOUNT
36	02/11/03	Check No. 4205 from National City Bank, Account No. XXXXX3239, in the name of PDS made payable to Rodney R. Richley and deposited into Farmers & Merchant Bank Account No. XX2873 in the name of Rodney Richley/Payroll Data Service	\$15,000.00

In violation of Title 18, United States Code, Sections 1957 and 2.

CRIMINAL FORFEITURE ALLEGATION 1
(Mail Fraud)

43. Upon conviction of the offenses alleged in Counts One through Ten of this Indictment, defendant RODNEY R. RICHLEY, II, shall forfeit to the United States of America pursuant to Title 18, United States Code, Section 981(a)(1)(c), and Title 28, United States Code, Section 2461, all property, real or personal, constituting or derived from proceeds obtained directly or indirectly as a result of said violations, including but not limited to the following:

a. \$4,387,985.80 in United States currency, representing the amount of proceeds obtained as a result of the offense of Mail Fraud, as alleged in Counts One through Ten of the Indictment.

b. All that lot of parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments, and easements, located at No. 22841 Stateline Rd., Lawrenceburg, Indiana, 47025, more particularly described as:

Lot Number 11, 12, 13, and 14, as designated on the recorded plat of "Jackson Acres", in Plat Record 5, page 14, of the plat records of Dearborn County, Indiana, being part of the northwest quarter of Section 12, Township 6 North, Range 1 West, Dearborn County, Indiana.

44. In the event that the property that is subject to

forfeiture as a result of any act or omission of the defendant:

- a. cannot be located upon exercise of due diligence;
- b. has been placed beyond the jurisdiction of the Court;
- c. has been transferred or sold to, or deposited with, a third party;
- d. has been substantially diminished in value; or
- e. has been commingled with other property that cannot be divided without difficulty,

it is the intent of the United States to seek forfeiture of any other property of the defendant up to the value of such property pursuant to Title 21, United States Code, Section 853(p), incorporated by reference in Title 18, United States Code, Section 982(b), up to the amount set forth above.

All pursuant to Title 18, United States Code, Section 981(a)(1)(c), Title 28, United States Code, Section 2461, and Title 21, United States Code, Section 853(p), as incorporated in Title 18, United States Code, Section 982(b).

CRIMINAL FORFEITURE ALLEGATION 2
(Money Laundering)

45. Pursuant to Title 18, United States Code, Section 982(a)(1), defendant RODNEY R. RICHLEY, II, upon conviction of one or more of the offenses set forth in Counts Twenty-Nine through Thirty-Six of the Indictment, shall forfeit to the United States the following property:

a. All right, title, and interest in any and all property involved in each offense in violation of Title 18, United States Code, Sections 1957 and 2, for which the defendant is convicted, and all property traceable to such property, including but not limited to, the following: (1) all money or other property that was the subject of each transaction, transportation, transmission, or transfer in violation of Section 1957; and (2) all property used in any manner or part to commit or to facilitate the commission of those violations.

b. \$375,484.24 in United States currency, representing the amount of criminally derived proceeds involved in the offense of money laundering.

c. All that lot of parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments, and easements, located at No. 22841 Stateline Rd., Lawrenceburg, Indiana, 47025, more particularly described as:

Lot Number 11, 12, 13, and 14, as designated
on the recorded plat of "Jackson Acres", in

Plat Record 5, page 14, of the plat records of Dearborn County, Indiana, being part of the northwest quarter of Section 12, Township 6 North, Range 1 West.

46. In the event that the property that is subject to forfeiture as a result of any act or omission of the defendant:

- a. cannot be located upon exercise of due diligence;
- b. has been placed beyond the jurisdiction of the Court;
- c. has been transferred or sold to, or deposited with a third party;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

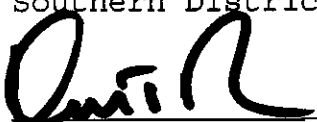
it is the intent of the United States to seek forfeiture of any other property of the defendant up to the value of such property pursuant to Title 21, United States Code, Section 853(p), incorporated by reference in Title 18, United States Code, Section 982(b), up to the amount set forth above.

All pursuant to Title 18, United States Code, Section 982(a)(1), and Title 21, United States Code, Section 853(p), as incorporated in Title 18, United States Code, Section 982(b).

A TRUE BILL:

151
FOREPERSON

GREGORY G. LOCKHART
United States Attorney
Southern District of Ohio



VIPAL J. PATEL
Deputy Criminal Chief